



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1990-0010, EPA-HQ-1994-0001; EPA-HQ-SFUND-2002-0008, EPA-HQ-SFUND-2003-0010, EPA-HQ-OLEM-2021-0797, EPA-HQ-OLEM-2021-0798, -EPA-HQ-OLEM-2021-0815; EPA-HQ-OLEM-2021-0922, EPA-HQ-OLEM-2021-0934, EPA-HQ-OLEM-2021-0935, EPA-HQ-OLEM-2022-0111; FRL-9172-02-OLEM]

### Proposed Deletion from the National Priorities List

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule and withdrawal of proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is withdrawing the proposed rule published in the *Federal Register* on March 22, 2022 (87 FR 16135) due to typographical errors. EPA is reissuing a Notice of Intent to delete four sites and partially delete six sites from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state, through its designated state agency, have determined that all appropriate response actions under CERCLA, other than operations and maintenance of the remedy, monitoring and five-year reviews, where applicable, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** The proposed action published on March 22, 2022 (87 FR 16135) is hereby withdrawn, effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments regarding this new proposed action must be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under the Docket Identification number included in Table 1 in the **Supplementary Information** section of this document.

Submit your comments, identified by the appropriate Docket ID number, by one of the following methods:

- *<https://www.regulations.gov>*. Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.
- *Email*: Table 2 in the **Supplementary Information** section of this document provides an e-mail address to submit public comments for the proposed deletion action.

*Instructions:* Direct your comments to the Docket Identification number included in Table 1 in the **Supplementary Information** section of this document. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov> or e-mail. The <https://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact

information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <https://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Public comments received on the proposed rule published March 22, 2022 (87 FR 16135) will be considered in response to this proposed rule and do not need to be resubmitted.

*Docket:* EPA has established a docket for this action under the Docket Identification included in Table 1 in the **Supplementary Information** section of this document. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the corresponding Regional Records Center. Location, address, and phone number of the Regional Records Centers follows.

Regional Records Center:

- Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA New England, EMS Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; 617/918-1440.
- Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mail code 3MD13, Philadelphia, PA 19103; 215/814-3024.

- Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street, SW, Mail code 9T25, Atlanta, GA 30303; 404/562-8637.
- Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Records Manager, Mail code SRC-7J, Metcalfe Federal Building, 7<sup>th</sup> Floor South, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886-4465.
- Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mail code SUPRSTAR, Lenexa, KS 66219; 913/551-7956.
- Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mail code Records Center, Denver, CO 80202-1129; 303/312-7273.

The EPA is temporarily suspending Regional Records Centers for public visitors to reduce the risk of transmitting COVID-19. Information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID.

#### **FOR FURTHER INFORMATION CONTACT:**

- Robert Lim, U.S. EPA Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, [lim.robert@epa.gov](mailto:lim.robert@epa.gov), 617/918-1392.
- Andrew Hass, U.S. EPA Region 3 (DE, DC, MD, PA, VA, WV), [hass.andrew@epa.gov](mailto:hass.andrew@epa.gov), 215/814-2049.
- Leigh Lattimore or Brian Farrier, U.S. EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), [lattimore.leigh@epa.gov](mailto:lattimore.leigh@epa.gov) or [farrier.brian@epa.gov](mailto:farrier.brian@epa.gov), 404/562-8768 or 404/562-8952.
- Karen Cibulskis, U.S. EPA Region 5 (IL, IN, MI, MN, OH, WI), [cibulskis.karen@epa.gov](mailto:cibulskis.karen@epa.gov), 312/886-1843.
- David Wennerstrom, U.S. EPA Region 7 (IA, KS, MO, NE),

wennerstrom.david@epa.gov, 913/551-7996.

- Linda Kiefer, U.S. EPA Region 8 (CO, MT, ND, SD, UT, WY), kiefer.linda@epa.gov, 303/312-6689.
- Chuck Sands, U.S. EPA Headquarters, sands.charles@epa.gov.

## **SUPPLEMENTARY INFORMATION:**

### Table of Contents.

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Partial Site Deletion

## **I. Introduction**

EPA is withdrawing the proposed rule published in the *Federal Register* on March 22, 2022 (87 FR 16135) due to typographical errors. EPA is reissuing a Notice of Intent to delete four sites and partially delete six sites from the National Priorities List (NPL) and requests public comments on this proposed action.

The NPL constitutes Appendix B of 40 CFR part 300 which is the NCP, which EPA created under section 105 of the CERCLA statute of 1980, as amended. EPA maintains the NPL as those sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). These partial deletions are proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466, (November 1, 1995). As described in 40 CFR 300.425(e)(3) of the NCP, a site or portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to delete or partially delete these sites for thirty (30) days after publication of this document in the *Federal Register*.

Section II of this document explains the criteria for deleting sites from the NPL. Section III of this document discusses procedures that EPA is using for this action. Section IV of this document discusses the site or portion of the site proposed for deletion and demonstrates how it meets the deletion criteria, including reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete.

## **II. NPL Deletion Criteria**

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

## **III. Deletion Procedures**

The following procedures apply to the deletion or partial deletion of the sites in this proposed rule:

- (1) EPA consulted with the respective state before developing this Notice of Intent for deletion.
- (2) EPA has provided the state 30 working days for review of site deletion documents prior to publication of this Notice of Intent to Delete today.
- (3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.
- (4) The state, through their designated state agency, has concurred with the proposed deletion action.
- (5) Concurrently, with the publication of this Notice of Intent for deletion in the *Federal Register*, a notice is being published in a major local newspaper of general circulation near the site. The newspaper announces the 30-day public comment period concerning the Notice of Intent for deletion.
- (6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket, made these items available for public inspection, and copying at the Regional Records Center identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete or partially delete the site. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete or partially delete the site, the EPA will publish a final Notice of Deletion or Partial Deletion in the *Federal Register*. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a site or a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site or a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

#### **IV. Basis for Full Site or Partial Site Deletion**

The site to be deleted or partially deleted from the NPL, the location of the site, and docket number with information including reference documents with the rationale and data principally relied upon by the EPA to determine that the Superfund response is complete are specified in Table 1. The NCP permits activities to occur at a deleted site or that media or parcel of a partially deleted site, including operation and maintenance of the remedy, monitoring, and five-year reviews. These activities for the site are entered in Table 1, if applicable, under Footnote such that; 1= site has continued operation and maintenance of the remedy, 2= site receives continued monitoring, and 3= site five-year reviews are conducted.

**Table 1**

<b>Site Name</b>	<b>City/County, State</b>	<b>Type</b>	<b>Docket Number</b>	<b>Footnote</b>
McKin Co.	Gray, ME	Full	EPA-HQ-OLEM-2021-0922	1, 2, 3
Tybouts Corner Landfill	New Castle County, DE	Partial	EPA-HQ-OLEM-2021-0797	1, 3
C&R Battery Co., Inc	Chesterfield County, VA	Full	EPA-HQ-OLEM-2021-0798	1, 3
Chem-Solv, Inc.	Cheswold, DE	Full	EPA-HQ-OLEM-2021-0934	1, 3
Koppers Co., Inc (Charleston Plant)	Charleston, SC	Partial	EPA-HQ-SFUND-1994-0001	1, 3
Brantley Landfill	Island, KY	Full	EPA-HQ-OLEM-2022-0111	1, 2, 3
Summit National	Deerfield Township, OH	Partial	EPA-HQ-OLEM-2021-0815	1, 3
Himco Dump	Elkhart, IN	Partial	EPA-HQ-SFUND-1990-0010	1, 3



Omaha Lead	Omaha, NE	Partial	EPA-HQ-SFUND-2003-0010	1, 3
Libby Asbestos	Libby, MT	Partial	EPA-HQ-SFUND-2002-0008	1, 3

Table 2 includes information concerning whether the full site is proposed for deletion from the NPL or a description of the area, media or Operable Units (OUs) of the NPL site proposed for partial deletion from the NPL, and an e-mail address to which public comments may be submitted if the commenter does not comment using <https://www.regulations.gov>.

**Table 2**

<b>Site Name</b>	<b>Full Site Deletion (Full) or Media/Parcels/Description for Partial Deletion</b>	<b>E-mail address for public comments</b>
McKin Co.	Full	bryant.john@epa.gov
Tybouts Corner Landfill	2 parcels soil and groundwater, approx. 78 acres	hinkle.christopher@epa.gov
C&R Battery Co., Inc	Full	guerrero.karla@epa.gov
Chem-Solv, Inc.	Full	hinkle.christopher@epa.gov
Koppers Co., Inc (Charleston Plant)	98 acres of soils, sediments, and tidal marsh	zeller.craig@epa.gov
Brantley Landfill	Full	jackson.brad@epa.gov
Summit	Land/soil portion of	Deletions@usepa.onmicrosoft.com

National	landfill, adjacent removal areas, and 45 downgradient parcels	
Himco Dump	11.5-acre land/soil portion of the site plus adjacent soils	Deletions@usepa.onmicrosoft.com
Omaha Lead	19 residential parcels	wennerstrom.david@epa.gov
Libby Asbestos	OU6 including 42 miles of railroad right-of-way between and in the towns of Libby and Troy, MT	zinner.dania@epa.gov

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: March 25, 2022.

**Larry Douchand,**  
*Office Director,*  
*Office of Superfund Remediation and Technology Innovation.*

[FR Doc. 2022-06774 Filed: 3/30/2022 8:45 am; Publication Date: 3/31/2022]